

September 29, 2021

*Via FOIA Online*

U.S. EPA Region 4  
Office of Regional Counsel  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

Re: Freedom of Information Act Request re: Cainhoy JPN SAC 2016-00756

To Whom It May Concern:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, the Southern Environmental Law Center ("SELC") submits this request for public records in the possession or control of the U.S. Environmental Protection Agency Region 4 ("EPA Region 4") related to the development of the Cainhoy development. Specifically, we request:

1. All records within the EPA Region 4 file pertaining to joint public notice SAC 2016-00756 for the proposed Cainhoy Development since our previous FOIA dated January 25, 2021.

Electronic delivery is preferred in order to lessen the burden on EPA Region 4 staff. For the purposes of this request, the term "records" includes all electronic materials, data, tables, spreadsheets, formulas, directives, observations, impressions, and contracts in the possession, custody, or control of EPA Region 4. Our request also specifically includes responsive documents and records prepared by, created by, or in the possession, custody, or control of EPA Region 4's agents, contractors, and subcontractors.

SELC requests that you waive any search and duplication fees and provide the requested records without charge, or at a reduced charge, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). The disclosure of the requested materials would be in the public interest because it is likely to contribute significantly to public understanding of EPA Region 4's activities and is not in the commercial interest of SELC. As a 501 (c)(3) non-profit public interest organization, SELC lacks any commercial interest in the records, and none of its clients have any such interest. Courts have recognized that Congress intended FOIA's fee waiver provision to be "liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987). SELC works to protect the natural resources of the South Carolina coastal plain and, specifically, to gather, analyze, and disseminate public information about the impacts of projects on wetlands, wildlife, water quality, and other resources in South Carolina. SELC is dedicated to using the power of the law similarly to protect clean air, clean water, and special places throughout all six Southeastern states in which we work: Alabama, Tennessee, Georgia, South Carolina, North Carolina, and Virginia. SELC does not charge its

clients for legal advice or representation; instead, SELC provides such advice and representation free of charge within the scope of its mission.

We seek these records in order to inform the public about the risk posed to the resilience of the Charleston community by these types of damaging development proposals that do not adequately recognize the value of wetlands and their flood storage benefits. Disclosure of records responsive to this request will aid the public's understanding of the scale of coastal development in their state. SELC has extensive experience in reviewing, understanding, synthesizing, and communicating information relating to coastal systems in our Southeastern states, advancing public understanding and dialogue.<sup>1</sup>

Further, this enhanced understanding will accrue to a significant segment of the public. In addition to making information available on our website to anyone searching for it,<sup>2</sup> SELC also actively distributes information to the public through newsletters and other publications.<sup>3</sup> SELC also disseminates information by participating in meetings and conferences. Further, SELC coordinates with a diverse collection of partner organizations actively working to participate in coastal system policy. Each of these partners has its own base of supporters to which it will disseminate the information disclosed pursuant to this request. SELC's and its partners' supporters are directly affected by decisions made by federal agencies through Region 4's involvement in the planning and permitting processes. As a result, responsive information about the scale of shoreline engineering will be shared with a substantial portion of the public, and, specifically, a portion of the public affected by and involved with participation in Region 4's processes.

Should our request for reduced or waived fees be denied, we are prepared to bear the reasonable costs necessary to fulfill this request, although we ask that you contact us prior to fulfilling the request should the fees exceed \$100. We reserve our rights to appeal a denial of our request for a fee waiver or reduction.

FOIA directs a responding agency to make a "determination" on any request within twenty working days of receipt. 5 U.S.C. § 552(a)(6)(A). We specifically request that you comply with the statutory deadline. Should our request be denied, we ask that you inform us of the grounds for denial and the specific administrative appeal rights that are available. Id.

We are willing to work with your agency to minimize the work necessary to respond. We are available to review documents prior to any duplication and are willing to discuss other ways to facilitate your response to our FOIA request. We also will happily accept an electronic copy of the requested information, and in fact prefer this method of delivery, in order to further minimize effort.

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<sup>1</sup> See <http://www.southernenvironment.org/news-and-press/in-the-news> for current examples of media coverage informed by information disseminated by SELC.

<sup>2</sup> For examples relevant to federal agencies, please visit SELC's website at <https://www.southernenvironment.org/news-and-press/news-feed/federal-agency-fails-to-assess-need-for-pipeline-and-its-environmental-impacts>; <https://www.southernenvironment.org/news-and-press/news-feed/epa-refutes-tva-claim-that-cap-in-place-coal-ash-plans-have-federal-blessing>; <https://www.southernenvironment.org/news-and-press/news-feed/tva-doubles-down-on-coal-ash-cover-up-plan-despite-growing-public-concern>.

<sup>3</sup> To see some recent examples, please visit <http://www.southernenvironment.org/news-and-press/publications>.

Please feel free to contact me with any questions or to plan a convenient time and place for document review. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Catherine M. Wannamaker". The signature is fluid and cursive, with the first name "Catherine" being more prominent than the middle initial "M." and the last name "Wannamaker".

Catherine Wannamaker  
cwannamaker@selcsc.org